

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21194
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting a property tax reduction benefit for 2006. The State Tax Commission has reviewed the file and makes its decision based on the documents in the file.

[Redacted] (petitioner) timely submitted a 2006 property tax reduction benefit application. The application was approved, and the petitioner received a benefit for payment of the property tax on her manufactured home.

Idaho Code §§ 63-707 and 708 provide for audit of all claims and recovery of benefits that have been paid in error. During review of the petitioner's application and [Redacted] records, the staff discovered that ownership of the home was shared with another person. They were named equally on the registration to the manufactured home filed with the Department of Transportation.

Because the petitioner had received a benefit for a 100 percent ownership instead of a 50 percent ownership, the staff sent the petitioner a Notice of Deficiency Determination dated May 12, 2008, requesting payment of the over-paid portion of the 2006 benefit. The petitioner appealed, and her file was transferred to the Legal/Tax Policy Division for administrative review.

In the petitioner's petition for redetermination, the petitioner stated that the other name on the registration is her daughters; but she lives alone and is the sole owner of the property.

Idaho Code § 63-701 describes the conditions that must exist for an applicant to qualify to receive circuit breaker benefits. Section 63-701 in pertinent parts state:

(7) **"Owner" means a person holding title in fee simple or holding a certificate of motor vehicle title** (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate or who is a person entitled to file a claim under section 63-702, Idaho Code.

...

(c). . . **Any partial ownership shall be considered as ownership** for determining initial qualification for property tax reduction benefits; **however, the amount of property tax reduction** under section 63-704, Idaho Code, and rules promulgated pursuant to section 63-705, Idaho Code, **shall be computed on the value of the claimant's partial ownership.** "Partial ownership," for the purposes of this section, means any one (1) person's ownership when property is owned by more than one (1) person or where the homestead is held by an entity, as set forth in this subsection, but more than one (1) person has the right of occupancy of such homestead. (Emphasis added.)

When the petitioner's benefit was paid, it was credited against the home's property tax as if the petitioner had a 100 percent ownership interest in the property. The petitioner qualified to receive a benefit for her portion of ownership only.

One might feel, for any number of reasons, that the statutory treatment is unfair or otherwise unreasonable. The Idaho Supreme Court has addressed such circumstances. The Court stated, in part:

Taxpayer urges that ambiguous language of the statute should be so construed as to avoid socially undesirable or oppressive results. It may be agreed, where legislative language is ambiguous, and other rules of statutory construction do not control, the court should consider social and economic results. But in this instance we do not find the statutes involved to be ambiguous; no exemption is granted and the legislative intent is to impose a tax on residents of this state measured by taxable income wherever derived. In such case our duty is clear. We must follow the law as written. If it is socially or economically unsound, the power to correct it is legislative, not judicial. John Hancock Mutual Life Insurance Co. v. Neill, 79 Idaho

385, 319 P.2d 195 (1957). (Emphasis added.)

Herndon v. West, 87 Idaho 335, 339 (1964).

The Tax Commission finds the definition of “owner” in Idaho Code § 63-701 to be clear. Whether the petitioner intended for her daughter to be a partial owner or not, she became a partial owner when she was listed with her mother as owner on the registration of the manufactured home. Repayment of the over-paid portion of the benefits is appropriate.

WHEREFORE, the Notice of Deficiency Determination dated May 12, 2008, is APPROVED, AFFIRMED, and MADE FINAL.

The petitioner paid the tax, penalty, and interest as stated in the Notice of Deficiency Determination so no further demand for payment is necessary.

An explanation of the petitioner’s right to appeal this decision is enclosed.

DATED this _____ day of _____, 2008.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2008, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.